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OUR REFERENCE No.:

DAVIE60.001APC

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09/077,574; filed September 24, 1998

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OCT. 20. 2003

P. 1/7 NO. 403

PATENT

Case Docket No. DAVIE60.001APC

Date: October 20, 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Panaccio et al.
Appl. No. : 09/077,574
Filed : September 24, 1998
For : THERAPEUTIC AND
DIAGNOSTIC
COMPOSITIONS
Examiner : Devi, Sarvamangala J.N.
Group Art Unit : 1645

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Dear Sir:

Enclosed for filing in the above-identified application are:

- (X) Communication regarding Erroneous Notice of Abandonment.
- (X) Copy of return postcard, dated 8-20-03 and copy of Notice of Appeal.
- (X) The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Account No. 11-1410.

Marina L. Gordney
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Client Code: DAVIE60.001APC

Page 1

First named inventor : Panaccio
App. No. : 09/077,574
Filed : September 24, 1998
Title : THERAPEUTIC AND
DIAGNOSTIC
COMPOSITIONS
Examiner : Devi, Sarvamangala J.N.
Group Art Unit: 1645

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COMMUNICATION REGARDING
ERRONEOUS NOTICE OF ABANDONMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The PTO mailed a Notice of Abandonment in the above-captioned application on September 5, 2003. The Notice alleges that the application became abandoned because of "Applicants failure to timely file a proper reply to the Office Letter mailed February 20, 2003." However, Applicants did mail a Notice of Appeal to the PTO on August 20, 2003, within the time period for response to the Final Office Action mailed on February 20, 2003. A copy of Applicants' Notice of Appeal is attached hereto. The Notice of Appeal was received by the PTO on August 22, 2003, as shown in the attached copy of Applicants' postcard returned to Applicants by the PTO. Therefore, the Notice of Abandonment was issued by the PTO in error. The Applicants respectfully request that the Notice to be rescinded.

The undersigned agent of record contacted the Examiner assigned to this case by telephone on Tuesday, October 9, 2003. The Examiner indicated that she would look into this matter. Applicants are filing the present paper in order to provide a written record of the erroneous Notice of Abandonment and to provide the PTO with copies of the documents relevant to rescission of the erroneous abandonment. Should the PTO have any further questions

Client Code: DAVIE60.001APC
Page 2

rescission of the erroneous abandonment. Should the PTO have any further questions concerning this matter, please direct them to the undersigned at the telephone number appearing below.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: October 20, 2003

By: _____

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